

Assembly Bill No. 761

CHAPTER 226

An act to add Section 14085.9 to the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

[Approved by Governor August 23, 1999. Filed with
Secretary of State August 24, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 761, Briggs. Medi-Cal: disproportionate share providers.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Under existing law, the State Department of Health Services is required to make supplemental payments to certain outpatient disproportionate share hospitals based on specified criteria.

Under existing law, each hospital contracting to provide services under the Medi-Cal program pursuant to a selective provider contract that meets the criteria contained in the state medicaid plan for disproportionate share hospital status is eligible to negotiate with the commission for distributions from the Emergency Services and Supplemental Payments Fund.

This bill would create the continuously appropriated Small and Rural Hospital Supplemental Payments Fund, from which distributions may also be made in accordance with provisions similar to those governing the Emergency Services and Supplemental Payment Fund.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 14085.9 is added to the Welfare and Institutions Code, to read:

14085.9. (a) Except as provided in subdivision (g), each hospital contracting to provide services under this article that meets the criteria contained in the state medicaid plan for disproportionate share hospital status shall be eligible to negotiate with the commission for distributions from the Small and Rural Hospital Supplemental Payments Fund, which is hereby created and, notwithstanding Section 13340 of the Government Code, is continuously appropriated for the purposes specified in this section. All distributions from the fund shall be pursuant to this section.

(b) (1) To the extent permitted by federal law, the department shall administer the fund in accordance with this section.

(2) The money in this fund shall be available for expenditure by the department for the purposes of this section, subject to approval through the regular budget process.

(c) The fund shall include all of the following:

(1) Subject to subdivision (l), all public funds transferred by public agencies to the department for deposit in the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal medicaid laws. These transfers shall constitute local government financial participation in Medi-Cal as permitted under Section 1902(a)(2) of the Social Security Act (Title 42 U.S.C. Sec. 1396a(a)(2)) and other applicable federal medicaid laws.

(2) Subject to subdivision (l), all private donated funds transferred by private individuals or entities for deposit in the fund as permitted under applicable federal medicaid laws.

(3) Any amounts appropriated to the fund by the Legislature.

(4) Interest that accrues on amounts in the fund.

(d) Amounts in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section.

(e) Distributions from the fund shall be supplemental to any and all other amounts that hospitals would have received under the contracting program, and under the state medicaid plan, including contract rate increases and supplemental payments and payment adjustments under distribution programs relating to disproportionate share hospitals.

(f) Distributions from the fund shall not serve as the state's payment adjustment program under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396r-4). To the extent permitted by federal law, and except as otherwise provided in this section, distributions from the fund shall not be subject to requirements contained in or related to Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396r-4). Distributions from the fund shall be supplemental contract payments and may be structured on any federally permissible basis, as negotiated between the commission and the hospital.

(g) In order to qualify for distributions from the fund, a hospital shall meet all of the following criteria:

(1) Be a contracting hospital under this article.

(2) Satisfy the state medicaid plan criteria referred to in subdivision (a).

(3) Be a small and rural hospital as defined in Section 124840 of the Health and Safety Code.

(4) Be a licensed provider of standby emergency services as described in Section 70649 and following of Title 22 of the California Code of Regulations.

(5) Be able to demonstrate a purpose for additional funding under the selective provider contracting program with proposals relating to health care services that are made available, or will be made available, to Medi-Cal beneficiaries.

(6) Be determined by the California Medical Assistance Commission to be a hospital that provides an important community service that otherwise would not be provided in the community.

(h) (1) The department shall seek federal financial participation for expenditures made from the fund to the full extent permitted by federal law.

(2) The department shall promptly seek any necessary federal approvals regarding this section.

(i) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in following fiscal years.

(j) For purposes of this section, “fund” means the Small and Rural Hospital Supplemental Payments Fund.

(k) (1) Any public agency transferring amounts to the fund, as specified in paragraph (1) of subdivision (c), may for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public funds or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(2) Notwithstanding paragraph (1), a public agency may transfer to the fund only those moneys that have a source that will qualify for federal financial participation under the provisions of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or other applicable federal medicaid laws.

(l) Public funds transferred pursuant to paragraph (1) of subdivision (c), and private donated funds transferred pursuant to paragraph (2) of subdivision (c), shall be deposited into the fund, and expended pursuant to this section. The director may accept only those funds that are certified by the transferring entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contributions and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) and may return any funds transferred in error.

(m) The department may adopt emergency regulations for the purposes of this section.

(n) The state shall be held harmless from any federal disallowance resulting from this section. A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section with respect to that hospital. The state

may recoup that federal disallowance from the hospital in any manner authorized by law or contract.

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